

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSICA ELWART-KONKEL,

Plaintiff,

-v-

WELLNESS FI GROUP LLC,

Defendant.

24-cv-8932 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

On January 6, 2025, at the initial pretrial conference in the above-captioned case, the Court warned plaintiff's counsel that it would dismiss the case if plaintiff did not serve defendant within the 90-day period provided for in the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 4(m). On February 21, 2025 -- two days after 90 days had elapsed from the filing of plaintiff's complaint -- plaintiff filed a purported "affidavit of service." See ECF No. 6. That document, however, indicates that the process server failed to serve defendant's registered agent. See id. at 1 (describing the status of service on defendant's registered agent as "NON-SERVED").

In addition to plaintiff's failure to comply with the 90-day deadline for service under Rule 4, the Court has two issues with plaintiff's submission. First, the process server describes his efforts across four days to serve an individual named Edward Vallis -- a registered agent of defendant Wellness Fi Group LLC. But the process server does not appear to have attempted service of the

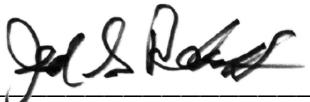
other registered agent of Wellness Fi, Scan Mailbox Solutions LLC, which is listed in the report attached by plaintiff to the affidavit. See id. at 3. Indeed, that entity is listed first among Wellness Fi's registered agents and appears to be a company that offers a registered-agent service and provides a corporate address. Plaintiff does not explain why she did not attempt to serve Wellness Fi through this entity.

Second, plaintiff does not explain why, if she could not complete service through either registered agent, she did not effect service on defendant through the Texas secretary of state under sections 5.251 and 5.252 of the Texas Business Organizations Code. See Fed. R. Civ. P. 4(h)(1); see also Fed. R. Civ. P. 4(e)(1).

For these reasons, plaintiff's action against defendant is dismissed.

SO ORDERED.

New York, NY
February 25, 2025



JED S. RAKOFF, U.S.D.J.